

**REMARKS**

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 1-10 and 12-21 are now pending, wherein claims 15-21 are new. Support for new claims 15-21 can be found in claims 1-10 as originally filed.

The Office Action notes that the U.S. Patent Application Publication to Berglund et al. cited in the Information Disclosure Statement filed on July 14, 2005, was not considered because of a typographical error listing this document on the Form PTO/SB08a as “2002/165980” instead of as “2002/164980”. Nevertheless, Berglund was cited in an International Search Report (ISR), and as evidenced by the Notice of Acceptance, a copy of the ISR and Berglund were provided to the U.S.P.T.O. on July 14, 2005. As set forth in M.P.E.P. § 609.03 “The examiner will consider the documents cited in the international search report in a PCT national stage application when the Form PCT/DO/EO/903 indicates that both the international search report and the copies of the documents are present in the national stage file.” Accordingly, Applicant respectfully requests consideration of the Berglund document pursuant to M.P.E.P. § 609.03.

The Office Action states that the application does not include an Abstract of Disclosure. Applicant notes, however, that the Notice of Acceptance and the PTO's records in PAIR indicate that an Abstract was filed on March 3, 2006. Nevertheless, attached is another copy of the Abstract.

Claims 1-10 and 12-14 are rejected for obviousness under 35 U.S.C. § 103(a) in view of the combination of U.S. Patent No. 7,338,998 to Murata et al. ("Murata") and U.S. Patent Application Publication No. 2003/0036403 to Shiu et al. ("Shiu"). This ground of rejection is respectfully traversed.

The combination of Murata and Shiu does not render claim 1 obvious because the combination does not disclose or suggest:

c) indicating the transport format combinations and the channel quality requirements to the mobile station;

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g) receiving the indication of existing channel quality...[which] is communicated to the mobile station by inband signaling, whereby the indication of the existing quality of the channel of variable quality is included in every downlink radio packet, in data locations normally assigned for carrying user information.

Murata discloses a process for selecting transport format combinations (TFC) based on transmission power, which is described in connection with the flowcharts of figures 6 and 7. These processes basically involve the TAF IF 53 of the mobile station. In other words, in Murata *the mobile station calculates* the TFCs based on transmission power, and accordingly Murata does not disclose that the "the transport format combinations and the channel quality requirements" are *indicated to the mobile station*. Shiu does not remedy this deficiency of Murata.

The Office Action recognizes that Murata does not disclose the receipt of the indication of existing channel quality in the manner recited in claim 1, and instead relies upon Shiu.

Shiu discloses a power control technique for a channel with multiple formats. The power control technique involves a terminal measuring the downlink transmission from the base station and using a number of power control loops to provide power offset updates to the base station by multiplexing the power offset updates and other power control information for transmission to the base station. Shiu does not, however, disclose or suggest that the power offset updates or other power control information is "is communicated to the mobile station by inband signaling...in every downlink radio packet, in data locations normally assigned for carrying user information."

Nevertheless, the Office Action cites the title, abstract, and paragraphs 0048-0050 and 0052-0055 of Shiu as disclosing the receipt of indications of existing channel quality in the manner recited in claim 1. The title and abstract generally describe techniques for controlling transmission power. Paragraphs 0048-0050 generally describe downlink information transmitted to the terminal. Paragraphs 0052-0055 generally describe power control techniques that involve the terminal "measuring the signal quality of the data transmission."<sup>1</sup> There is nothing in these sections disclosing or suggesting that the terminal receives "the indication of existing channel quality...by inband signaling...in every downlink

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<sup>1</sup> Paragraph 0055.

radio packet, in data locations normally assigned for carrying user information.” Furthermore, the measurements in these sections of Shiu are of the downlink channel. In contrast, in Applicant’s claim 1 the indication of existing quality is for the channel “used for communication from the mobile station to the network”, i.e., the uplink channel. Murata does not remedy these deficiencies of Shiu.

Because Murata and Shiu each does not disclose or suggest the indication of transport format combinations and channel quality requirements to a mobile station and the receipt of indications of existing quality of the channel by a mobile station in the manner recited in claim 1, the combination does not render claim 1 obvious.

Claims 2-10 and 12-14 are patentably distinguishable over the combination of Murata and Shiu at least by virtue of their dependency from claim 1.

Furthermore, the combination of Murata and Shiu does not disclose or suggest that “the relative channel quality is calculated as the minimum channel quality required such that data sent on the channel is received with an error ratio below a defined threshold” as recited in claim 5 or “(c2) indicating the rank of each transport format combination to the mobile station, along with the transport format combinations themselves, to the mobile station” as recited in claim 6.

For at least those reasons set forth above, it is respectfully requested that the rejection of claims 1-10 and 12-14 for obviousness be withdrawn.

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New claims 15-21 recite similar elements to those discussed above with regard to claim 1 and are patentably distinguishable over the current grounds of rejection for similar reasons.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #103884.56565US).

Respectfully submitted,

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